

AMENDMENTS TO THE DRAWINGS

Please amend the drawings to include Figures 12 and 13 as shown in Appendix A, captioned "New Sheet."

REMARKS

Summary of Changes Made

This application was originally filed with 10 claims, which were canceled in a preliminary amendment that added claims 11-27. Claims 11-13, 15, and 27 have been canceled herein. Claim 14 has been amended to incorporate the language of claim 11. Claim 16 remains unchanged. Claims 17-20 have been amended to eliminate "sample pick up surface." Claims 21-22 have been amended to change dependency to claim 14. Claims 22-23 remain unchanged. Claims 25 and 26 were amended to eliminate "preferably." Accordingly, claims 14 and 16-26 (12 claims) remain pending. The drawings have been amended to include Figs. 12 and 13, which clearly depict the claimed feature "segmented sphere." It is believed that claim amendments obviate the need to amend the drawings to depict the "flat trough" and the "pick up surface," inasmuch these terms are no longer recited in any claim. No new matter has been added by this amendment.

Claim Rejections - 35 U.S.C. §112, second paragraph

The second undersigned thanks the Examiner for the discussion of claim language and drawing requirements on August 22, 2005 which led to this amendment.

The Examiner rejected all pending claims (11-27) under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner will note that claims 11-13, 15, and 27 have been canceled, thus the rejection as to those claims is moot.

Claim 14 was noted by the Examiner to contain allowable subject matter, and accordingly has been amended to fully independent form, incorporating most of the limitations of claim 11. As discussed on 8/22/05 with Examiner Nagpaul, in the amendment of claim 14, the limitation "sample pick up surface" was not imported from claim 11 in favor of the existing "recess" feature.

Based on these limitations and amendments, it is believed that claim 14 is now clear, distinct, and allowable.

Next, the "sample pick up surface" has been deleted from each claim where it originally appeared. In the continuing interest of clarity, claims 19 and 20 have been amended to eliminate "represented." Claims 25 and 26 have been amended to eliminate "preferably" in keeping with U.S. patent practice. It is believed that these amendments are fully responsive to the section 112 rejections.

Claim Rejections - 35 U.S.C. §102 (Rees)

The Examiner rejected claims 11, 17 and 19 under 25 U.S.C. 102(b) as being anticipated by Rees U.S. Pat. No. 6,555,386 ("Rees"). The Examiner contends that Rees teaches a device for the collection of a liquid sample including a sample dispenser body 1 having at its end a sample pick-up surface 15 bounded by a continuous edge. The sample pick-up surface is provided with a recess 17 such that when the sample pick-up surface 15 is dipped into a sample reservoir, a droplet of liquid sample of predetermined size adheres to the sample pick up surface. By placing the sample pick-up surface on the sample absorbing area, the Examiner continues, the sample is completely dispensed. Based on his observation of the hand-drawn figures of Rees, the

Examiner contends that Figure 3 of Rees shows a recess in the shape of a flat trough, and believes that the recess has a depth of less than 50% of the width of the sample pick-up surface. Concerning claim 19, the Examiner believes that Rees' pick-up surface is polished and has a free end face of the sample dispenser body in the form of an elongated body.

The Examiner will note that claim 11 has been canceled, rendering the rejection thereof moot. Claims 17 and 19 have been amended, as previously discussed, now using "recess" in favor of "sample pick up surface." The Examiner has stated that the subject matter of claim 14 is allowable. Because claims 17 and 19 now ultimately depend from claim 14, it is asserted that claims 17 and 19 are novel and patentable.

Claim Rejections - 35 U.S.C. §103 (Rees)

To continue, the Examiner rejected claims 12, 13, 21, 22, 25 and 27 under 35 U.S.C. § 103(a) as unpatentably obvious over Rees. The Examiner first admits much about what Rees fails to disclose: a sample pick-up surface having an area less than 2 mm² (claim 12) or 1 mm² (claim 13); a cylinder section having a diameter of about 1-2mm (claim 21) and a cylinder section having a diameter of about 1.2-1.7 mm (claim 22); and two flattened walls preferably spaced about 0.8-1.2 mm apart (claim 25).

Despite the foregoing deficiencies of Rees, the Examiner believes Rees discloses an internal bore of 0.1-3 mm, and concludes both that the tip is smaller than the bore, and that it would be obvious to modify Rees device to optimize the dispensing device.

With respect to claim 27, the Examiner admits that Rees fails to disclose a foam cleaning material, but concludes it would be obvious to use such a material.

Initially, the Examiner will note that claims 12, 13, and 27 have been canceled herein. Hence, the rejections under 35 U.S.C. §103 are believed to be moot.

With respect to claims 21, 22, and 25, each has been amended to ultimately depend from claim 14. Based on previous argumentation relating to claim 14 and the Examiner's statement that claim 14 is drawn to allowable subject matter, it is respectfully submitted that claims 21, 22, and 25 are patentable over all cited prior art.

Allowable Subject Matter

The Examiner finds that claims 14-16, 18, 20, 23, 24, and 26 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, as well as to overcome the 35 U.S.C. §112 rejections. The Examiner admits that the prior art does not teach or fairly suggest a recess having the shape of a hollow cone of segmented hollow sphere.

Based on the above argumentation and amendments, it is believed that this requirement has been fully met, both to overcome the cited prior art and to overcome the section 112 rejections. It is submitted that the indicated claims are in condition for allowance.

Drawings

The examiner objected to the drawings, contending that they fail to disclose every claimed feature of the invention. For example, the Examiner does not believe that the features "shape of a flat trough" in claim 11 and the "segmented hollow sphere" in claims 14-15 are adequately depicted.

Because claim 11 has been canceled, the issue of depicting the feature "flat trough" is moot. The new drawing sheet including Figs. 12 and 13 clearly show an embodiment having a recess in the shape of a segmented hollow sphere.

It is believed that the drawings, including Figs. 1- 13, clearly show all claimed elements of the invention.


CONCLUSION

In light of the foregoing, it is respectfully submitted that the present application, including claims 14 and 16 - 26 (12 claims) is in condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge the same to our Deposit Account No. 18-0160, our Order No. HUB-12804.

Respectfully submitted,

RANKIN, HILL, ~~PORTER~~ & CLARK LLP



Kenneth A. Clark
Reg. No. 32,119
Christopher J. Korff
Reg. No. 55,342

925 Euclid Avenue
Suite 700
Cleveland, Ohio 44115-1405
(216) 566-9700

September 9, 2005